CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	☐ U.S.
Kelly Lyon		Squad #10	201903649	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precinct:	18 Mo. SOL	EO SOL
Monday, 11/19/2018 12:25 PM		275 Jackson Street		94	5/19/2020	1/3/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	e Received at CCI	RB
Mon, 04/29/2019 10:35 PM		CCRB	Call Processing System	Mon, 04/2	29/2019 10:35 PM	1
Complainant/Victim	Type	Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Michal Wiech	00588	955661	094 PCT			
2. POM Tenzing Legdhen	03297	936936	094 PCT			
3. SGT Jorge Caraballo	04444	926410	094 PCT			
4. POM Justin Londono	23191	950768	094 PCT			
5. POM Robert McGinn	30709	930695	094 PCT			
6. CPT William Glynn	00000	932718	094 PCT			
Officer(s)	Allegati	on		Inve	estigator Recon	nmendation
A.POM Robert McGinn	Abuse: I	Police Officer Robert Mo	cGinn questioned (5)	2)		
B.POM Justin Londono	Abuse: I	Police Officer Justin Lon	ndono questioned § 87(2)		
C.SGT Jorge Caraballo	Abuse: S	 Sergeant Jorge Caraballo 	questioned § 87(2)(b)			
D.POM Michal Wiech		Police Officer Michal W				
E.POM Tenzing Legdhen	Abuse: Police Officer Tenzing Legdhen stopped [8 87(2)]					
F.POM Michal Wiech		Police Officer Michal W as to § 87(2)(5)	iech threatened to iss	sue a		
G.POM Tenzing Legdhen		Police Officer Tenzing Las to \$87(2)(b)	egdhen threatened to	issue a		
H.POM Michal Wiech	Abuse: I § 87(2)(b)	Police Officer Michal W	iech took a recording	g of		
I.POM Tenzing Legdhen	Abuse: I § 87(2)(b)	Police Officer Tenzing L	egdhen took a record	ling of		
J.CPT William Glynn	Abuse: 0	Captain William Glynn s	stopped § 87(2)(b)			
K.POM Robert McGinn	Abuse: I	Police Officer Robert Mo	eGinn frisked (8 87(2)			
L.POM Robert McGinn	Abuse: I	Police Officer Robert Mo	eGinn searched [§ 87(2)]			
M.POM Justin Londono	Abuse: I	Police Officer Justin Lor	idono searched (5) 87(2)			
N.POM Justin Londono	Abuse: I	Police Officer Justin Lon s property.	ndono seized § 87(2)			

Officer(s)	Allegation	Investigator Recommendation
O.SGT Jorge Caraballo	Abuse: Sergeant Jorge Caraballo seized \$87(2)(b) s property.	
P.POM Michal Wiech	Abuse: Police Officer Michal Wiech searched the vehicle in which §87(2)(b) was an occupant.	

Case Summary

On April 29, 2019, SONO filed this complaint with the CCRB by phone. The complaint was originally assigned to Investigator Sara Griffin and was reassigned to Investigator Lyon on November 21, 2019.

On November 19, 2018, at approximately 12:25 p.m., in the vicinity of 275 Jackson Street in Brooklyn, street in Brooklyn, parked his brother's vehicle in the parking lot next to the Cooper Houses NYCHA development. was about to cross the street in the vicinity of Jackson Street and Kingsland Avenue to go to the deli when PO Robert McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn, PO Londono, and Sergeant Jorge Caraballo, also of the 94th Precinct, allegedly asked street in the vicinity of Jackson Street and Kingsland Avenue to go to the deli when PO Robert McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn, PO Londono, and Sergeant Jorge Caraballo, also of the 94th Precinct, allegedly asked street in the vicinity of Jackson Street and Kingsland Avenue to go to the deli when PO Robert McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn, PO Londono, and Sergeant Jorge Caraballo, also of the 94th Precinct, allegedly asked street in the vicinity of Jackson Street and Kingsland Avenue to go to the deli when PO Robert McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn, PO Londono, and Sergeant Jorge Caraballo, also of the 94th Precinct, allegedly asked street in the vicinity of Jackson Street and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said, "Hey street" come here." PO McGinn and PO Justin Londono of the 94th Precinct, said

At approximately 12:50 p.m., in the vicinity of Jackson Street and Kingsland Avenue, crossed the street and did not use the crosswalk. PO Michal Wiech and PO Tenzing Legdhen, of the 94th Precinct, stopped and informed him that he was jaywalking (Allegation D and E: Abuse of Authority – Stop, stopped and informed him that he was jaywalking (Allegation D and E: Abuse of Authority – Stop, stopped and informed him that he was jaywalking (Allegation D and E: Abuse of Authority – Po Wiech and PO Legdhen asked for and obtained stopped stopped and informed him that he was jaywalking (Allegation D and E: Abuse of Authority – Po Wiech and PO Legdhen asked for and obtained stopped stopped and informed him that he was jaywalking that he could be summonsed if he committed another violation (Allegation F and G: Abuse of Authority – Threat of summons, PO Legdhen recorded the incident on PO Wiech's Department issued cellphone (Allegation H and I: Abuse of Authority – Photography/Videography, stopped and informed him that he was jaywalking that he could be summonsed if he committed another violation (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of summons, stopped and informed him that he was jaywalking (Allegation F and G: Abuse of Authority – Threat of Stopped and G: Abuse of Authority – Threat of Stopped and G: Abuse of Authority – Threat of Stopped and G: Abuse of Authority – Threat of Stopped and G: Abuse of Authority – Threat of Stopped and G: Abuse of Authority – Threat of Stopped

At approximately 1:26 p.m., \$87(2)(b) was in the vicinity of 275 Jackson Street near some benches within the Cooper Houses development, when PO McGinn, PO Londono, and Sgt. Caraballo allegedly stopped him on the instruction of Captain William Glynn of the 94th Precinct (Allegations J: Abuse of Authority – Stop, \$87(2)(b) . PO McGinn patted \$87(2)(b) down then he and PO Londono allegedly entered \$87(2)(b) s pockets (Allegation K: Abuse of Authority – Frisk, \$87(2)(b) and Allegations L and M: Abuse of Authority – Search (of person), \$87(2)(b) . Sgt. Caraballo looked through the leaves on the ground and picked up a black plastic bag which contained marijuana, and \$87(2)(b) was arrested.

and his vehicle were transported to the 94th Precinct stationhouse (**Allegation** N and **O:** Abuse of Authority – Seizure of property, [87(2)(9)]). PO Wiech performed an inventory search at the stationhouse and discovered additional narcotics in the vehicle (**Allegation** P: Abuse of Authority – Vehicle search, [87(2)(9)]).

\$87(2)(b) was arrested for \$87(2)(b) : arrest #\$87(2)(b) (BR 01). \$87(2)(b) was convicted of disorderly conduct \$87(2)(b)

ARGUS footage (**BR 02**) and PO Wiech's cellphone footage (**BR 03**) were obtained and relevant sections are discussed below. There was no other known video of this incident.

Findings and Recommendations

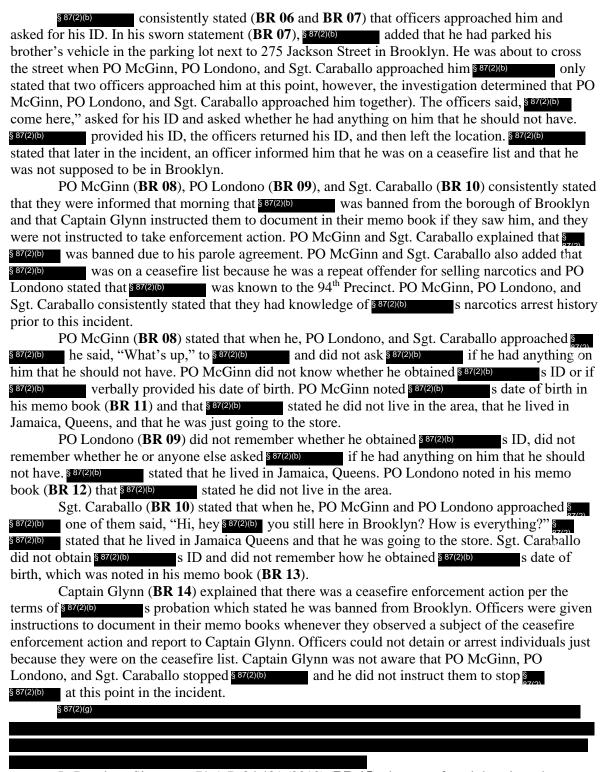
Allegation (A) Abuse of Authority: Police Officer Robert McGinn questioned

Allegation (B) Abuse of Authority: Police Officer Justin Londono questioned

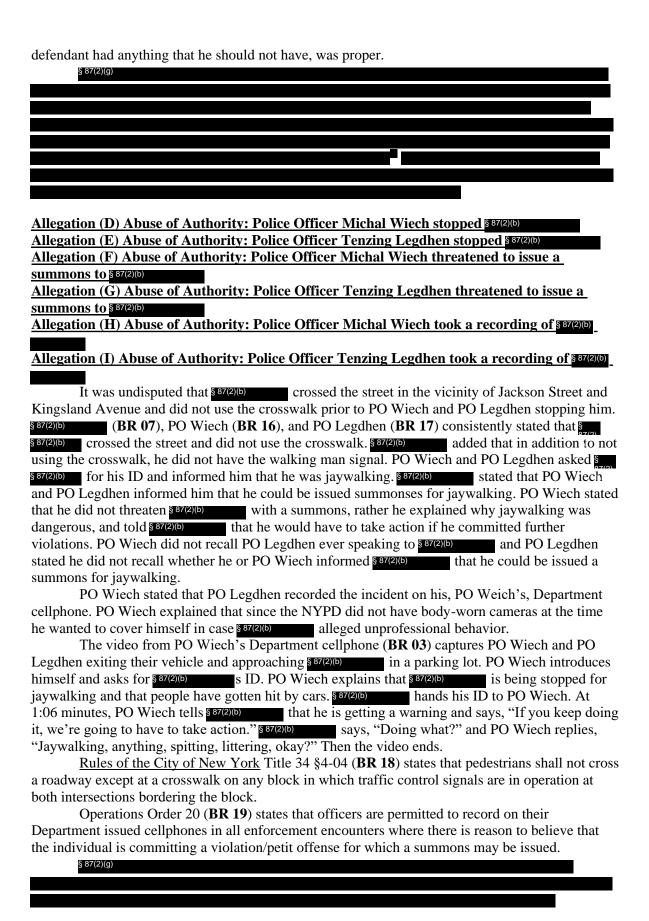
Allegation (C) Abuse of Authority: Sergeant Jorge Caraballo questioned

S87(2)(6)

had at least one prior arrest involving narcotics within the confines of the Cooper Houses NYCHA development and more than one arrest in the 94th Precinct (**BR 05**). PO McGinn, PO Londono, and Sgt. Caraballo approached significant in the vicinity of Jackson Street and Kingsland Avenue, near Cooper Houses, which was also in the confines of the 94th Precinct. The officers spoke to significant however, the context of the conversation and whether officers acquired significant in the significant however.



In <u>People v. Simmons</u>, 79 A.D.3d 431 (2010) (**BR 15**), the court found that since the defendant admitted that he was not allowed to be in the subway, and gave a meritless and suspicious excuse for being there, that these factors combined with the officers' knowledge of the defendant's criminal history (history of pickpocketing in the subway), it gave the officer a founded suspicion that the defendant was in the subway to commit a crime, and not merely a parole violator who they should report to the Division of Parole, therefore the level 2 inquiry of asking whether the



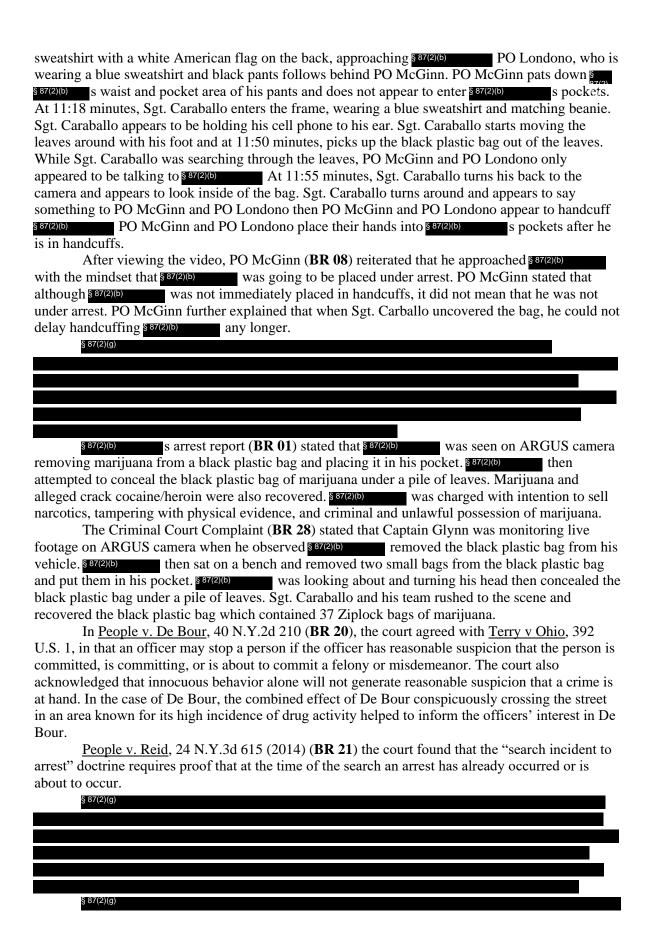
CCRB Case # 201903649

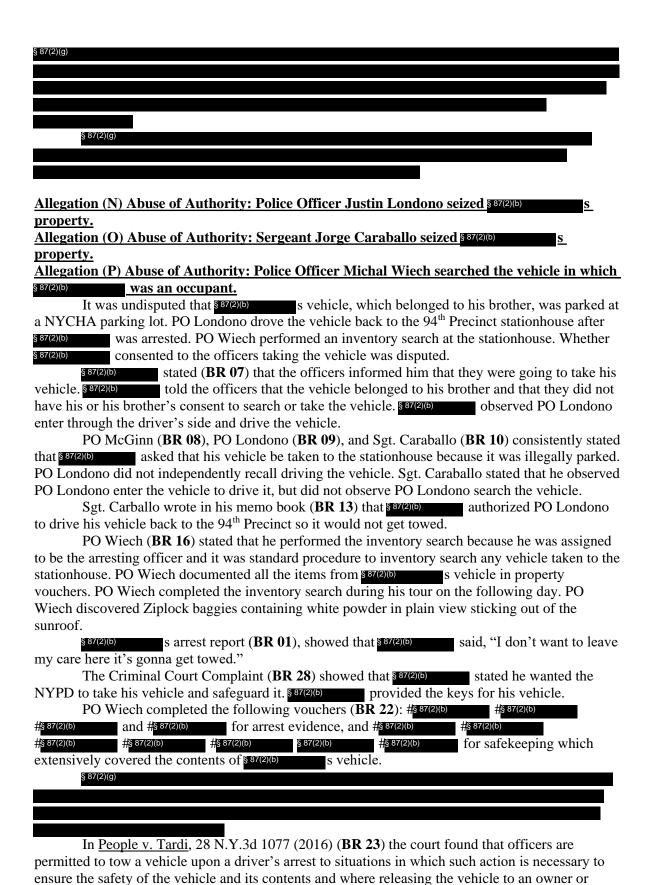
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Allegation (J) Abuse of Authority: Captain William Glynn stopped 887(2)(6) Allegation (K) Abuse of Authority: Police Officer Robert McGinn frisked 887(2)(b) Allegation (L) Abuse of Authority: Police Officer Robert McGinn searched 887(2)(b) Allegation (M) Abuse of Authority: Police Officer Justin Londono searched 887(2)(6) It was undisputed that \$87(2)(b) covered a black plastic bag under a pile of leaves. Captain Glynn watched [87(2)(0) cover the bag with leaves from his office using the ARGUS camera system. Captain Glynn instructed PO McGinn, PO Londono, and Sgt. Caraballo to go to 275 Jackson Street. The information Captain Glynn communicated was disputed. stated (**BR 07**) that after he encountered PO Wiech and PO Legdhen, he spoke to a group of unidentified individuals outside of 275 Jackson Street, then walked over to a bench, sat down, and smoked a cigarette. §87(2)(b) did not hide anything or drop anything on the ground. Approximately five minutes later, PO McGinn and PO Londono approached him. PO McGinn frisked § 87(2)(b) and he and PO Londono entered § 87(2)(b) s pockets and removed the contents. While PO McGinn and PO Londono were searching \$87(2)(6) Sgt. Carballo started looking through the leaves on the ground and picked up a black plastic bag. \$37(2)(5) learned that the plastic bag contained marijuana, but he did not know how much. An officer handcuffed § 87(2)(b) and escorted him to a police vehicle. Captain Glynn stated (BR 14) that he was watching the live feed on the ARGUS camera during this incident. The ARGUS video, located in IA 94 (BR 02), beginning at 5:50 minutes, who is wearing a blue/gray sweatshirt with a red hood, walking with an unidentified male wearing a black sweatshirt. The unidentified male walks away and the camera At 6:46 minutes, \$87(2)(b) sits down on a bench and takes a black zooms in on § 87(2)(b) plastic bag out of his pocket. §87(2)(b) takes a smaller object out of the bag, then reties the black plastic bag, drops it on the ground, and covers it with leaves using his hand. §87(2)(b) stays in the general vicinity until he walks out of the frame at 10:23 minutes. Captain Glynn stated (BR 14) that the behavior he viewed on the ARGUS camera was suspicious and indicative of stashing narcotics or marijuana close by so it would be accessible. Captain Glynn found covering the bag with leaves to be unusual and not innocuous as there was a trashcan nearby. Captain Glynn added that his training as a police officer and his experience of supervising and effecting countless narcotics arrests, as well as familiarity with hand to hand transactions and knowledge of how drug dealers operate in that area, helped inform his suspicion. Captain Glynn was familiar with \$87(2)(b) s history of narcotics dealing; however, he did not recall when he realized he was watching §87(2)(b) on the ARGUS camera. Captain Glynn called Sgt. Caraballo and described what he viewed on the ARGUS camera and instructed Sgt. Caraballo to investigate. Captain Glynn did not instruct Sgt. Caraballo to arrest [807(2)(6)] did not know what was inside the black plastic bag. Captain Glynn did not recall whether he remained on the phone with Sgt. Caraballo during the arrest itself. PO McGinn, PO Londono, and Sgt. Caraballo consistently stated that Captain Glynn called Sgt. Caraballo and instructed them to go to 275 Jackson Street. PO McGinn stated (BR 08) that he did not recall the specific words that Sgt. Caraballo conveyed to him, but it was something to the effect that Captain Glynn observed \$87(2)(b) committing a criminal act on camera, hiding a bag of narcotics, and going in and out of the bag. PO Londono stated (BR 09) that Captain Glynn told Sgt. Caraballo that he observed a hand to hand transaction and instructed them to arrest § 87(2)(b) Sgt. Caraballo (**BR 10**) stated that Captain Glynn told him that § 87(2)(b) hid a bag of drugs underneath leaves and instructed them to arrest \$37(2)(b) PO McGinn, PO Londono, and Sgt. Caraballo consistently stated that they approached §87(2)(b) knowing that he was going to be placed under arrest.

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PO McGinn did not independently recall frisking \$87(2)(b) The ARUGUS video located in IA 94 (**BR 02**) beginning at 11:00 minutes, shows PO McGinn, who is wearing a blue





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designee is not otherwise appropriate.

In <u>People v. Padilla</u>, 21 N.Y.3d 268 (2013) (**BR 24**) the court found that an inventory search of a vehicle, following a lawful arrest of a driver of a vehicle that is required to be impounded, was permissible as the search was in accordance with police procedure, resulted in a meaningful inventory list, and the primary objective was to preserve the property of the defendant, protect the police from a claim of lost property, and protect police and others from dangerous instruments.

<u>Patrol Guide</u> procedure 218-13 (**BR 25**) states that whenever property comes into the custody of the Department, all valuables inventoried from a vehicle must be removed and invoiced in a property voucher.

	§ 87(2)(g)		
	§ 87(2)(g)		
		a	
		Civilian and Officer CCRB Histories	
•	§ 87(2)(b)		

•	§ 87(2)(b)			

- Captain Glynn has been a member of service for 16 years and a subject in 17 additional CCRB complaints and 45 allegations, three of which were substantiated.
 - o 200605789 involved a substantiated allegation of a strip search against Captain Glynn. The Board recommended charges and the NYPD imposed Command Discipline A. 887(2)(9)
- PO McGinn has been a member of service for 17 years and a subject in five additional CCRB complaints and a subject in 12 allegations, one of which was substantiated.
 - 201305421 involved a substantiated allegation of a vehicle search against PO McGinn. The Board recommended Command Discipline and the NYPD imposed Instructions. §87(2)(9)
- PO Londono has been a member of service for eight years and a subject in one additional CCRB complaint and two allegations, none of which were substantiated. §87(2)(9)
- PO Wiech has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.
- PO Legdhen has been a member of service for 15 years and a subject in one additional CCRB complaint and one allegation which was not substantiated. §87(2)(9)

Mediation, Civil and Criminal Histories

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• This complaint was not suitable for mediation.

	•	New York City Office of the Compregards to this complaint (BR 27).	otroller has no record of a
Squad No.:	10		
Investigator:	Signature	Print Title & Name	 Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date